REMARKS/ARGUMENTS

Claims 11-27 are pending in the application.

The specification of the application has been amended above to correct an obvious error in the chemical structure appearing at the bottom of page 5.

Claims 11-27 are directed to methods of treatment involving the quinolone antibiotic known as "moxifloxacin". Moxifloxacin is a member of the genus described on pages 4 and 5 of the application. The chemical structure of the genus appearing at lines 15-20 on page 4 is correct. As shown in that structure, moxifloxacin and other compounds of formula (I) have a "$COOR^2$" group at the 3-position. R^2 is defined as including H, as well as other possible substituents. Thus, the genus described on pages 4 and 5 of the application requires $COOR^2$ substitution at the 3-position, and the $COOR^2$ group may be COOH.

The structure of the compound moxifloxacin shown at the bottom of page 5 is incorrect because the "COOH" group at the 3-position was inadvertently omitted when the present application was filed. This error has been corrected by means of the amendment of the specification requested above.

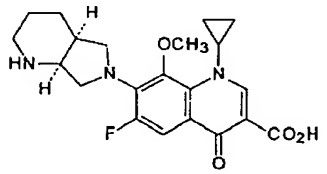
The correction of the structure appearing at the bottom of page 5 does not introduce any new matter, since the above-discussed portions of the specification require a $COOR^2$ group at the 3-position and specify that the $COOR^2$ group may be COOH. Moreover, in the last paragraph on page 5, the specification identifies the "preferred" compound of formula (I) by both name (i.e., moxifloxacin) and chemical structure. The chemical structure of the compound moxifloxacin was publicly known as of the priority date of the present application (i.e., September 30, 1998). The fact that the chemical structure was publicly known is demonstrated, for example, by the following information, which appears in the publication WHO Drug Information:

moxifloxacinum
moxifloxacin — 1-cyclopropyl-6-fluoro-1,4-dihydro-8-methoxy-7-[(4a*S*,7a*S*)-octahydro-6*H*-pyrrolo[3,4-*b*]pyridin-6-yl]-4-oxo-3-quinolinecarboxylic acid
antibacterial

moxifloxacine — acide 1-cyclopropyl-6-fluoro-8-méthoxy-7-[(4a*S*,7a*S*)-octahydro-6*H*-pyrrolo[3,4-*b*]pyridin-6-yl]-4-oxo-1,4-dihydroquinoléine-3-carboxylique
antibactérien

moxifloxacina — ácido 1-ciclopropil-6-fluoro-1,4-dihidro-8-metoxi-7-[(4a*S*,7a*S*)-octahidro-6*H*-pirrolo[3,4-*b*]pirdin-6-il]-4-oxo-3-quinolinacarboxílico
antibacteriano

$C_{21}H_{24}FN_3O_4$ 151096-09-2



The foregoing information was published in WHO Drug Information, Volume 11, No. 4 (1997), at page 279. Pages 266, 267 and 279 of this publication are attached to this Amendment as "Exhibit A".

Since the correct chemical structure of the compound moxifloxacin was publicly known as of the priority date of the present application, the recitation of the term "moxifloxacin" in the claims of the present application does not create any indefiniteness issues. However, Applicants desire to amend the specification so as to correct the obvious error in the chemical structure appearing on page 5 of the application.

Claims 11-27 have been rejected under the judicially-created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claims 1-4 and 9-11 of U.S. Patent No. 6,395,746. Reconsideration of this rejection is respectfully requested.

The foregoing rejection is based on an assertion that the claims of U.S. Patent No. 6,395,746 encompass moxifloxacin. This assertion is incorrect. Formula (I) in Claim 1 of the '746 patent does not include cyclopropyl as a possible "Y" group, while moxifloxacin has a cyclopropyl group at this position. Thus, the claims of the '746 patent do not encompass moxifloxacin.

In view of the foregoing remarks, the above-identified patent application is believed to be in condition for allowance. A notification to that effect is respectfully requested.

Respectfully submitted,
ALCON RESEARCH, LTD.

March 9, 2006
Date

By: Gregg C. Brown
Gregg C. Brown
Registration No. 30,613

Attachment: Exhibit A

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Attorney Docket No.: 1732 US F2

Proposed International Nonproprietary Names: List 78

Comments on, or formal objections to, the proposed names may be forwarded by any person to the INN Programme of the World Health Organization within four months of the date of their publication in *WHO Drug Information*, i.e., for **List 78 Proposed INN not later than 15 May 1998.**

Dénominations communes internationales proposées: Liste 78

Des observations ou des objections formelles à l'égard des dénominations proposées peuvent être adressées par toute personne au Programme des Dénominations communes internationales de l'Organisation mondiale de la Santé dans un délai de quatre mois à compter de la date de leur publication dans *WHO Drug Information*, c'est-à-dire pour la **Liste 78 de DCI Proposées le 15 mai 1998 au plus tard.**

Denominaciones Comunes Internacionales Propuestas: Lista 78

Cualquier persona puede dirigir observaciones u objeciones respecto de las denominaciones propuestas, al Programa de Denominaciones Comunes Internacionales de la Organización Mundial de la Salud, en un plazo de cuatro meses, contados desde la fecha de su publicación en *WHO Drug Information*, es decir, para **la Lista 78 de DCI Propuestas el 15 de mayo de 1998 a más tardar.**

Proposed INN (Latin, English, French, Spanish)	*Chemical name or description: Action and use: Molecular formula Chemical Abstracts Service (CAS) registry number: Graphic formula*
DCI Proposée	*Nom chimique ou description: Propriétés et indications: Formule brute Numéro dans le registre du CAS: Formule développée*
DCI Propuesta	*Nombre químico o descripción: Acción y uso: Fórmula empírica Número de registro del CAS: Fórmula desarrollada*

abarelixum

abarelix

N-acetyl-3-(2-naphthyl)-D-alanyl-4-chloro-D-phenylalanyl-3-(3-pyridyl)-D-alanyl-L-seryl-*N*-methyl-L-tyrosyl-D-asparaginyl-L-leucyl-N^6-isopropyl-L-lysyl-L-prolyl-D-alaninamide

luteinizing-hormone-releasing-hormone inhibitor

abarélix

[*N*-acétyl-3-(naphtalén-2-yl)-D-alanyl]-(4-chloro-D-phénylalanyl)-[3-(pyridin-3-yl)-D-alanyl]-L-séryl-(*N*-méthyl-L-tyrosyl)-D-asparaginyl-L-leucyl-[N^6-(1-méthyléthyl)-L-lysyl]-L-prolyl-D-alaninamide

inhibiteur de l'hormone de libération de la lutéostimuline

abarelix

N-acetil-3-(2-naftil)-D-alanil-4-cloro-D-fenilalanil-3-(3-piridil)-D-alanil-L-seril-*N*-metil-L-tirosil-D-asparaginil-L-leucil-N^6-isopropil-L-lisil-L-prolil-D-alaninamida

inhibidor de la hormona de liberación de hormona luteinizante

$C_{72}H_{95}ClN_{14}O_{14}$ 183552-38-7

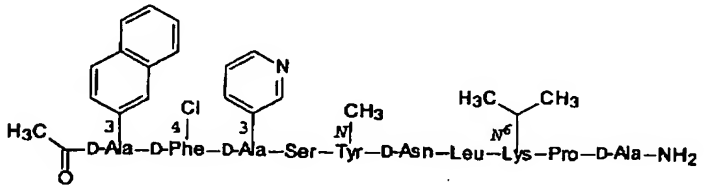


Exhibit A (3 pages total)

acidum minodronicum
minodronic acid

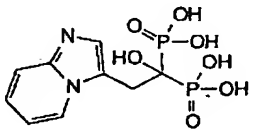
(1-hydroxy-2-imidazo[1,2-*a*]pyridin-3-ylethylidene)diphosphonic acid
calcium regulator

acide minodronique

acide [1-hydroxy-2-(imidazo[1,2-*a*]pyridin-3-yl)éthylidène]diphosphonique
régulateur du calcium

ácido minodrónico

ácido 1-hidroxi-2-imidazo[1,2-*a*]piridin-3-iletilideno)difosfónico
regulador del calcio
$C_9H_{12}N_2O_7P_2$ 127657-42-5



atreleutonum
atreleuton

1-[(*R*)-3-[5-(*p*-fluorobenzyl)-2-thienyl]-1-methyl-2-propynyl]-1-hydroxyurea
antiasthmatic

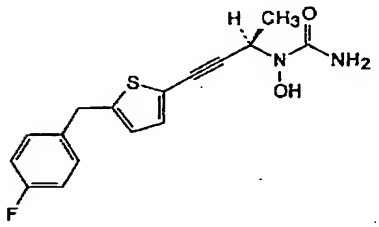
atréleuton

1-[(1*R*)-3-[5-(4-fluorobenzyl)thiophén-2-yl]-1-méthylprop-2-ynyl]-1-hydroxyurée
antiasthmatique

atreleutón

1-[(*R*)-3-[5-(*p*-fluorobencil)-2-tienil]-1-metil-2-propinil]-1-hidroxiurea
antiasmático

$C_{18}H_{15}FN_2O_2S$ 154355-76-7



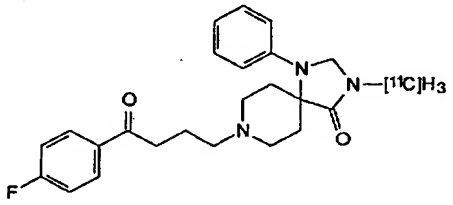
aviptadilum
aviptadil

L-histidyl-L-seryl-L-aspartyl-L-alanyl-L-valyl-L-phenylalanyl-L-threonyl-L-aspartyl-L-asparaginyl-L-tyrosyl-L-threonyl-L-arginyl-L-leucyl-L-arginyl-L-lysyl-L-glutaminyl-L-methionyl-L-alanyl-L-valyl-L-lysyl-L-lysyl-L-tyrosyl-L-leucyl- L-asparaginyl-L-seryl-L-isoleucyl-L-leucyl-L-asparagine
vasodilatator

aviptadil

L-histidyl-L-séryl-L-aspartyl-L-alanyl-L-valyl-L-phénylalanyl-L-thréonyl-L-aspartyl-L-asparaginyl-L-tyrosyl-L-thréonyl-L-arginyl-L-leucyl-L-arginyl-L-lysyl-L-glutaminyl-L-méthionyl-L-alanyl-L-valyl-L-lysyl-L-lysyl-L-tyrosyl-L-leucyl-L-asparaginyl-L-séryl-L-isoleucyl-L-leucyl-L-asparagine
vasodilatateur

$C_{23}[^{11}C]H_{28}FN_3O_2$ 94153-50-1



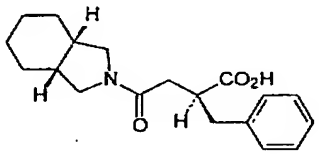
mitiglinidum

mitiglinide (-)-(2*S*,3a,7a-*cis*)-α-benzylhexahydro-γ-oxo-2-isoindolinebutyric acid
antidiabetic

mitiglinide (-)-acide (2*S*)-2-benzyl-4-[(3a*R*,7a*S*)-octahydro-2*H*-isoindol-2-yl]-4-oxobutanoïque
antidiabétique

mitiglinida ácido (-)-(2*S*,3a,7a-*cis*)-α-bencilhexahidro-γ-oxo-2-isoindolinbutírico
antidiabético

$C_{19}H_{25}NO_3$ 145375-43-5



moxifloxacinum

moxifloxacin 1-cyclopropyl-6-fluoro-1,4-dihydro-8-methoxy-7-[(4a*S*,7a*S*)-octahydro-6*H*-pyrrolo[3,4-*b*]pyridin-6-yl]-4-oxo-3-quinolinecarboxylic acid
antibacterial

moxifloxacine acide 1-cyclopropyl-6-fluoro-8-méthoxy-7-[(4a*S*,7a*S*)-octahydro-6*H*-pyrrolo[3,4-*b*]pyridin-6-yl]-4-oxo-1,4-dihydroquinoléine-3-carboxylique
antibactérien

moxifloxacina ácido 1-ciclopropil-6-fluoro-1,4-dihidro-8-metoxi-7-[(4a*S*,7a*S*)-octahidro-6*H*-pirrolo[3,4-*b*]piridin-6-il]-4-oxo-3-quinolinacarboxílico
antibacteriano

$C_{21}H_{24}FN_3O_4$ 151096-09-2